IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1798 of 1992
with
Civil Application No.10069 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJ. STATE ROAD TRANSPORT CORP

Versus

R S SINDHA

Appearance:
MR HARDIK C RAWAL for the Petitioner.
MR MUKESH H RATHOD for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/06/2002

ORAL JUDGEMENT

With the consent of the parties, Special Civil Application No.1798 of 1992 is taken up today for

hearing.

The respondent was employed as a Conductor with the petitioner-Corporation. On the relevant day, while on duty, as Conductor, on the route between Bharuch Depot and Garbada, the respondent collected fare of Rs.13.50 from six passengers and had issued ticket for Rs.2/-. It was also alleged that the way bill was also not closed. It was further alleged that the respondent did not punch the tickets in order to misappropriate the fare collected from the six passengers.

On the basis of the above incident, the respondent was subjected to departmental enquiry. The Enquiry Officer found the respondent guilty of the charges levelled against him. The respondent was dismissed from service with effect from 15.11.1984 after giving him a second show cause notice and after having considered his explanation.

The respondent raised an Industrial Dispute, being Reference (LCV) No.258 of 1985, before the Labour Court, Vadodara. The Labour Court reinstated the workman with full back wages.

While admitting the matter, this Court (Coram : B.S. Kapadia and M.S. Parikh, JJ.) passed the following roder on 16.3.1992 :-

> " ... ...
>
> Rule.
> Ad interim relief in terms of Para-7(b) of the petition subject to the provisions of Sec. 17-B of the I.D. Act.
>
> ... ..."

Accordingly, by way of ad interim relief, this Court stayed the execution and operation of the impugned Award dated 3.5.1991.

When the matter came up for confirmation of ad interim relief, this Court (Coram : A.P. Ravani & J.M. Panchal, JJ.) passed the following interim order on 2.3.1993 :-

> " ... ...
>
> Heard the learned counsels appearing for the parties as regards

> interim relief. It is an undisputed position that the respondent workman has been reinstated in service pursuant to the award passed by the Labour Court. Hence interim relief against the order of reinstatement is refused. As far as the direction for payment of back wages is concerned, stay is granted on condition that 50% of the amount of the back wages ordered to be paid to the respondent workman shall be paid to him latest by April 30, 1993. If 50% of the amount is not paid by April 30, 1993, as indicated hereinabove, it shall carry interest at the rate of 15% per annum till the amount is paid. As far as the balance of 50% of the amount is concerned, the petitioner Corporation may retain the same on condition that in case the petitioner Corporation loses in the petition and is ordered to make payment of the amount retained by it or any other amount as may be directed by this Court, the same shall be paid to the respondent workman with 12% interest which will be calculated from the date of the award.
>
> ... ..."

Under the aforesaid circumstances, and considering the fact that the Corporation has already paid 50% back wages, after reinstating the workman in service pursuant to the order of this Court dated 2.3.1993, in my view, the interim order of the Division Bench is required to be made absolute in the sense that order of reinstatement is not required to be interfered with. So far as the question of back wages is concerned, in the facts and circumstances of the case, especially when the misconduct on the part of the respondent is that the tickets were not punched properly, instead of 100% back wages, ends of justice will be met if the respondent-workman is given 50% of the back wages during the intervening period.

The petition is partly allowed. The Award is modified to the aforesaid extent. However, instead of 100% back wages, the workman will be entitled to only 50% back wages. Rule is made absolute to the aforesaid extent with no order as to costs.

In view of the order passed in the Special Civil

Application, no order in Civil Application No.10069 of 2001.

19th June, 2002 (P.B. Majmudar, J.)

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(apj)